

more than \$500,000 a year, and uses the savings—approximately \$24 billion a year, once fully effective, to establish a tax credit to help families afford the costs of long-term care.

Over 12 million senior and disabled Americans need long-term care today. That number will double over the next 10 years.

I believe that no one should have to spend down to Medicaid to afford long-term care, and no family should bear the burden alone.

A tax credit, as I propose, would provide much-needed relief to the families who provide long-term care for their loved ones, and is surely a better and fairer use of the surplus.

This is not about class warfare. This is about providing relief for our elderly and for the overburdened families who care for them. I thank Senators GRASSLEY, GRAHAM and BAYH for their leadership on this issue, and I hope my colleagues will agree that we should not provide a windfall for those earning more than half a million dollars a year, while ignoring the needs of so many families and the loved-one they struggle to care for.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. I thank Senator CORZINE for recognizing some of our work regarding long-term health care financing challenges. However, in addition to this amendment, we have had others that don't seem to recognize the Senate Finance Committee's function. We have held hearings on this very subject.

As I said, I am very committed to working at finding solutions to long-term financing challenges. In fact, I have introduced such a bill with Senator GRAHAM of Florida. The impending retirement of baby boom generations presents a great incentive to act soon.

What this motion doesn't recognize is that we do taxes one time and we will do long-term health care another time. We can do both. This bill is not the appropriate vehicle. This amendment will delay the tax reduction for working families.

I hope we can defeat this motion. I see it as a continuing effort to kill the bill.

I raise a point of germaneness. The amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CORZINE. I move to waive the Budget Act for consideration of the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 140 Leg.]

#### YEAS—43

Akaka	Edwards	Lincoln
Bayh	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Cleland	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kerry	Stabenow
Daschle	Kohl	Torricelli
Dayton	Landrieu	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

#### NAYS—56

Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Biden	Frist	Nickles
Bingaman	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Carper	Hutchison	Specter
Chafee	Inhofe	Thomas
Cochran	Jeffords	Thompson
Collins	Kyl	Thurmond
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, it is my understanding, under the previous order, we will now be in recess for a half hour. The next amendment we have scheduled will be amendment No. 743, the Conrad amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I thank the Chair.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 1:30 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 1:30 p.m. and reassembled when called to order by the Presiding Officer (Ms. SNOWE).

RESTORING EARNINGS TO LIFT INDIVIDUALS AND EMPOWER FAMILIES (RELIEF) ACT OF 2002—Continued

AMENDMENT NO. 743

The PRESIDING OFFICER. Under the previous order, time will now be divided on the amendment offered by the Senator from North Dakota, Mr. CONRAD.

The Senator from Nevada.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I am constrained to ask for another quorum call. Senator GRASSLEY is someone who has been here the entire time, and I would not feel right in going ahead without him. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

On the question of the Conrad amendment, who yields time?

If no one yields time, time will be charged equally on both sides.

The Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is about fairness and simplification. Under the bill before us, the very wealthiest taxpayers get the biggest percentage point reduction in their marginal rates, but the vast majority of taxpayers, the 70 million, who represent 70 percent of the taxpayers in this country, get no rate reduction.

This chart I show you tells the story. The 15-percent rate, which is where the vast majority of American taxpayers are, get no rate reduction. Those at the very top get the biggest rate reduction.

My amendment reduces the unfairness. It reduces the size of the tax cut for the top 3 percent of income earners. Specifically, my amendment leaves in place the first percentage point reduction for the top two tax rates but cancels the next two scheduled reductions, and it uses the savings from this change to increase the standard deduction by \$1,500 for singles; for couples the standard deduction will be increased by twice this amount, or a full \$3,000 when fully phased in.

This amendment is about fairness and simplification. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, not only is this amendment a bad

amendment but the information just given out is erroneous. It is wrong. It is bad.

Every taxpayer who pays income tax gets a marginal rate tax cut under this bill. Let's make that clear. Every taxpayer gets a tax reduction.

I do not know how many amendments we have had on this bill to kill the marginal rate tax reductions we have. We have had a flood of amendments from the other party. Not one amendment from the other party has been adopted yet. And I have to wonder, what has happened to bipartisanship? Is bipartisanship dead and buried, when just 5 months ago we talked so much about it? If so, I and Senator BAUCUS have not been invited to the funeral. I urge the defeat of this amendment.

The PRESIDING OFFICER. The time has expired on the Conrad amendment.

The question is on agreeing to the amendment that has been offered by the Senator from North Dakota.

Mr. REID. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. CONRAD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 141 Leg.]

#### YEAS—46

Akaka	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Graham	Nelson (FL)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Kohl	Wellstone
Dayton	Landrieu	Wyden
Dodd	Leahy	
Dorgan	Levin	

#### NAYS—53

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Thomas
Collins	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	

#### NOT VOTING—1

Stevens

The amendment (No. 743) was rejected.

Mr. GRASSLEY. Madam President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 744

The PRESIDING OFFICER. The question is on agreeing to amendment No. 744 offered by the Senator from North Dakota.

Mr. CONRAD. Madam President, this amendment is about fairness and simplification. If we look at the bill before us, it gives the biggest rate reduction to the highest income-tax payers of all.

Only seven-tenths of 1 percent of the taxpayers are in the 39.6-percent bracket, but they get 20 percent more rate reduction than the 36-percent bracket, than the 31-percent bracket, than the 28-percent bracket. And in the 15-percent bracket, where the vast majority of taxpayers are in this country, 70 percent of the taxpayers get no rate relief—none.

My amendment simply takes the additional rate relief that the very wealthiest receive, the additional six-tenths of 1 percent—that is 20 percent more than the other brackets—and shifts it to the lowest 70 percent of the tax filers in this country. It says: Let's give fairness when we are giving tax relief.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I urge my colleagues to vote against the amendment. I am going to offer the rest of my time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I think we have been through some very excellent debate and discussion and votes. I urge all my colleagues to recognize it is now time for us to move on. We can vote well into the night or tomorrow or into the weekend, but I think we all recognize that with a sufficient number of votes now, the issues are pretty well decided. I hope we can bring this issue to closure and get back to the education bill.

We have fought a good fight here, those of us who have some differing views or different positions, but it is time to move on.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 744 offered by the Senator from North Dakota.

Mr. CONRAD. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 142 Leg.]

#### YEAS—47

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Jeffords	Schumer
Clinton	Johnson	Stabenow
Conrad	Kennedy	Torricelli
Corzine	Kerry	Wellstone
Daschle	Kohl	Wyden
Dayton	Landrieu	

#### NAYS—52

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Baucus	Gramm	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Santorum
Breaux	Hagel	Sessions
Brownback	Hatch	Shelby
Bunning	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Kyl	Thomas
Craig	Lincoln	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	
Enzi	Miller	

#### NOT VOTING—1

Stevens

The amendment (No. 744) was rejected.

#### AMENDMENT NO. 747

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 747, the Carper amendment. The Chair advises the Senator from Delaware that there are 2 minutes equally divided on his amendment.

Mr. CARPER. I thank the Chair.

Mr. President, this bipartisan alternative reduces taxes by \$1.2 trillion over the next 10 years while making available \$150 billion for underfunded education proposals that work.

Our measure provides for modest reductions in each of the marginal tax rates while establishing retroactively a new 10-percent bracket.

This amendment provides for estate tax relief but not for its elimination.

We double the child credit and make it partially refundable.

Unlike the committee bill, our proposal makes permanent the R&D credit.

We extend popular expiring tax breaks and speed up marriage penalty relief.

We provide greater AMT protection and fund a number of energy production and conservation incentives now, not later.

I thank Senator CHAFEE for joining me in offering this comprehensive alternative. I yield to him.

Mr. BUNNING. Mr. President, can we have a copy of the amendment, please. We do not have a copy of the amendment.

Mr. REID. Mr. President, the amendment, I say to my friend from Kentucky, was filed last night. It has been on file since sometime yesterday evening.

The PRESIDING OFFICER. There is an amendment at the desk.

The remainder of the time has been yielded to the Senator from Rhode Island, Mr. CHAFEE.

Mr. CHAFEE. Mr. President, the central tenet of this bill is reducing the tax cut down to \$1.2 trillion. We would devote the other \$150 billion towards educational initiatives.

How many of us have heard from our constituents about the high cost of the property taxes? The main contribution to these high property taxes is the cost of special education, and that is a Federal mandate.

Let us right now reduce the tax cut and put it towards IDEA and property tax relief.

I urge adoption of the Carper-Chafee property tax relief amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DASCHLE. Mr. President, I commend the Senator from Delaware for his substitute amendment and urge my colleagues to support it. While in my view both the underlying bill and the substitute cut taxes more deeply than this nation can afford, the Carper substitute is far preferable to the underlying bill. It is simply fairer than the underlying bill. It provides a marginal rate cut for the 72 million middle class taxpayers who were skipped over in the underlying bill. It includes immediate marriage penalty relief and permanent deductibility of college tuition. And so, although I would not support enacting a tax cut of \$1.25 trillion, Senator CARPER's amendment deserves our support because it illustrates a far better and more balanced approach to tax and budget policy.

Mr. GRASSLEY. Mr. President, I urge my colleagues to vote against this amendment. This is another effort to cut our marginal tax rate cuts by \$150 billion. I defer to the Senator from Oregon for further comment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, we have had many votes taken on the issue of the tax bill. We know how people are going to vote. We know the outcome. It is time to vote on this tax cut so we can get to education and deal with some of the issues Senators have identified.

For the sake of the American people, it is time to vote.

Mr. CARPER. I ask for the yeas and nays.

Mr. GRASSLEY. Mr. President, the amendment is not germane to the provisions of the reconciliation bill. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CARPER. Mr. President, I move to waive the relevant section of the Congressional Budget Act for consideration of this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

Mr. REID. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 55, as follows:

[Rollcall Vote No. 143 Leg.]

#### YEAS—43

Akaka	Dorgan	Levin
Bayh	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Byrd	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Conrad	Johnson	Stabenow
Corzine	Kennedy	Wellstone
Daschle	Kerry	Wyden
Dayton	Kohl	
Dodd	Landrieu	

#### NAYS—55

Allard	Enzi	Murkowski
Allen	Fitzgerald	Murray
Baucus	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cantwell	Hutchison	Specter
Cleland	Inhofe	Thomas
Cochran	Kyl	Thompson
Collins	Lincoln	Thurmond
Craig	Lott	Torricelli
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

#### NOT VOTING—2

Leahy	Stevens
-------	---------

The PRESIDING OFFICER. On this question, the yeas are 43, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The point of order is sustained, and the amendment falls.

Mr. GRASSLEY. I ask to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I think we have a copy of the next amendment, so I am not speaking about the next amendment that will be up, but I will plead

with the people on the other side who are stalling to keep us from voting on this bill to at least, within the spirit of how Senator BAUCUS and I have run the Finance Committee, be very open and transparent with us on what these amendments are going to be. We cannot expect 100 Members of the Senate to vote yes or no on an amendment unless we know what that amendment is.

The pattern I set in the Senate Finance Committee is best illustrated by something I told each of the other 19 members when I went to their offices to visit with them about how they saw the committee ought to function and how we ought to do business. That is, No. 1, transparency; and, No. 2, communication. The bottom line was I told every member if they wanted to know what was going on in this committee, all they had to do was ask and they would get an answer. If they didn't get an answer, at least they were entitled to know why they couldn't get an answer. And 99.9 percent of the time I figure everybody is entitled to know what everybody else is doing.

Now we reach a point where the product of this bipartisan effort is in this Chamber, and I hope in the very same way we can communicate with each other, we can be very transparent. But most important, on the issue of what amendments we are going to vote on, we ought to have those amendments at the desk so we can study them while we are debating other amendments.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use my leader time to respond to the distinguished Senator from Iowa as well as to make a couple of comments about the next amendment.

I think the Senator from Iowa is absolutely right. We have no intention of denying him the opportunity to look at the amendments. I ask our assistant Democratic leader if he could take responsibility for ensuring that we would have not only the list of amendments, which we would be happy to share with the Senator, but the text of the amendments as well. I know he has a copy of the amendment about to be offered, and we will do our utmost to ensure copies are made available, as well as the list and the sequence of the amendments to be offered next.

#### AMENDMENT NO. 722

I now ask that amendment No. 722 be considered at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from North Dakota [Mr. DASCHLE] proposes an amendment numbered 722.

Mr. DASCHLE. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted and Proposed.")

Mr. DASCHLE. Mr. President, many Members have said for some time while we strongly support a tax cut, we have been very concerned about the flaws in this tax cut, concerned because it is based on projections we have grave doubts will ever be realized, budget projections that will be changed as early as July of this year; concerned about the magnitude, the size of the tax cut, and what we know it will do to Social Security and Medicare and how it will take away funds from those extraordinarily important commitments we made to our seniors; concerns we have about our ability to pay down the public debt; concerns we have about our ability to pay for prescription drug benefits or fully fund our education commitments.

We have a great number of concerns given the magnitude of this tax cut. We also are concerned about its fairness. This tax cut could be best described as devoting a third, a third, and a third to three very distinct categories of taxpayers. This tax cut gives one-third of the entire benefit to the top 1 percent of all taxpayers. Roughly a third goes to the next 19 percent of all taxpayers. And somewhat less than a third goes to the bottom 80 percent of all taxpayers. That is ultimately, in the second ten-year period, \$4 trillion divided into a third, a third, and a third—a third for the top 1 percent, a third for the next 19 percent, and a third for the bottom 80 percent.

The tax bill before us also provides reductions in the tax rates—that is, to every rate except the 15 percent rate under which 72 million American taxpayers fall. Those 72 million Americans—including 250,000 South Dakota taxpayers—are denied a marginal tax rate cut in this bill.

We think we can do better than that. Our country deserves better than that. So we offer our alternative. Our alternative is fiscally responsible. It dedicates \$900 billion to a tax cut, provides adequate resources for us to continue the effort to pay down the debt, and leaves adequate resources for us to meet the other obligations we have in health care, education, and Social Security and Medicare.

This amendment also recognizes the need for fairness. It provides a tax cut for everybody, but it also provides marriage penalty relief that starts next year, not in 5 years; a \$1,000 child tax credit that extends to working families with incomes over \$8,000; estate tax relief, providing up to \$4 million for couples and \$8 million for farms and small businesses; and it provides a tuition tax deduction for middle class Americans who send their children to college.

It provides savings incentives to encourage small businesses to provide pensions for their employees, and a permanent R&D tax credit. It eliminates the alternative minimum tax for incomes up to \$80,000 and provides for energy conservation and efficiency tax incentives for more energy efficient homes, appliances, and cars.

I will not belabor this. I will simply say this is the Democratic approach to meaningful tax relief this year, tax relief that can be realized this year, not 7 or 8 years from now, tax relief that recognizes we also have other very important priorities, priorities involving paying down the debt, priorities involving ensuring our commitment to education, health, Social Security, and other priorities that recognize the importance of fairness. I urge its adoption and yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There will be 2 minutes equally divided. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, obviously the minority leader has a right to offer this amendment, even at this late hour and even as thick as it is. We all know under the rules of reconciliation you can offer amendments forever.

But I want to remind my colleagues that in 1993 when we were on the floor of the Senate and we were considering, under reconciliation, a massive tax increase that was proposed by then-President Clinton, we could have followed the same strategy. We could have offered amendments endlessly. We hated that tax increase as much as some of your colleagues hate this tax cut. But I think wiser heads prevailed, recognizing that in doing that we were trying to do two things that were bad: First, we were corroding the basic structure of the Senate in using our rights in ways that really undercut how the system works in reconciliation; and, second, we were trying to win on the floor of the Senate what we had lost in the election.

I ask unanimous consent for 1 minute under the leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I think, second, we would have been trying to win on the floor of the Senate what we had lost in the election.

I am no happier about the Clinton tax increase today than I was 8 years ago. But I believe we did the right thing 8 years ago and I would just like to say to my colleagues, the Senate has worked its will. We know in the end what the outcome is going to be. We voted on virtually every amendment that can be imagined, at least by the minds of Senators—maybe not the mind of man but Senators.

I ask my colleagues to let us bring this to a conclusion and to have the vote. That is the plea. I simply ask people look at where we are and ask are we serving our institution and are we, in the process here, really abusing a right that every Senator has. Nobody is saying they do not have it. Nobody is saying this is foul play. I just think what goes around comes around.

I urge my colleagues to remember, 8 years ago when we did not do this, when you had a President and when you were taking the country in a different direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent for 3 minutes to answer the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask for 3 minutes on each side. I think Senator GRAMM somewhat responded to Senator DASCHLE.

The PRESIDING OFFICER. Without objection, 3 minutes on each side.

Mr. CONRAD. Mr. President, I remind colleagues 1993 was fundamentally different than this year. In 1993 we were using the reconciliation process for the reason intended. The reason intended for the reconciliation process was to reduce deficits. That was a plan to reduce deficits.

This is a plan that many of us believe is totally outside the reconciliation process, totally outside of what was intended for reconciliation. This is not a deficit reduction package; this is a tax cut. It ought to be handled in the way other legislation is handled, with Senators having the right to debate and to amend.

We are under a very truncated process that takes away the minority's fundamental rights in this body. If we want to talk about the institution and what is critical for the functioning of this institution, and the fairness towards the minority and minority rights, then that is right at the heart of what is occurring here today because the rights of the minority have been truncated. The rights of the minority have been abridged. The rights of the minority have been left out.

That is why we are in a process in which the only way we can express ourselves is to offer amendment after amendment so we can make the case that we believe holds against this tax bill.

There is a fundamental and profound difference between what is happening today and 1993, when reconciliation was used for deficit reduction. That was precisely what reconciliation was designed to be used for. It is not and was never designed to be used for a tax cut.

The rights of the minority have been, in our view, limited. All of us will pay a price in the future if we allow ourselves to be turned into a House of Representatives where Senators lose their fundamental right to debate, their fundamental right to amend.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. We have 3 minutes?

Mr. President, fellow Senators, let me first say that in 1974 we changed the law that applies to the Senate with

reference to how long you take on a budget resolution and what kind of amendments you can offer in a reconciliation bill. That was a law changed because we decided for the first time in the history of our country we would have a budget. We didn't have budgets before then, believe it or not. That budget process was invented then by that statute and the Senate, by an incredibly high vote—I think it was everybody but one—voted for that, including those who do not think we ought to use reconciliation to raise taxes and lower taxes both. This was voted in.

You will find since then that on three occasions the Senate has spoken on the issue of whether or not you can cut taxes in reconciliation. Three times we voted that that is appropriate. We have, on this process, this year. There was a vote in this body where Senators voted on whether we would use reconciliation in this bill for tax cuts. The whole argument was presented against it, on which my good friend Senator BYRD took a long time and presented all the history on it. I did the opposite. We voted. By a 51–49 vote we said let's use reconciliation and let's use it to cut taxes. Then we voted a resolution that said how much the taxes should be cut, and we told the Finance Committee to return the bill, which is now before us.

I do not know how you can claim we are violating anybody's rights. We have voted on those issues. They are the law of the land. When you want to repeal or change the 1974 law, do so. It might need amending. It might need changing.

Three times we voted on a reconciliation bill to cut taxes—three times. This is the fourth time. But this time we even took up the issue: Should we do it or not? And we said yes.

With that in mind I must say to my friends on the other side, it looks to me like, when we have spent a total of 31 and a half hours including the votes on this bill, and we have had 32 votes and only 1 passed. It was kind of irrelevant—a good amendment; a Senator on this side offered it, good amendment but actually it had nothing to do with the budget, the one that passed.

I think everybody in America should know this bill is going to get a significant majority, bipartisan, of U.S. Senators under this particular set of facts that I just described.

So, if we have not debated it enough, how long should it be debated? If we have not done everything can you do on this bill to make the two major points the Democrats want to make, I don't know how many more votes, how much more time you need?

I yield the floor.

Mr. GRASSLEY. Point of order, Mr. President. This amendment that we are supposed to know was here overnight, has a point of order against it. The amendment is not germane to the provisions of the reconciliation measure. I therefore raise a point of order against

the amendment under section 305(b)(2) of the Budget Act.

Mr. DASCHLE. Mr. President, I move to waive the relevant sections of the budget act.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 144 Leg.]

#### YEAS—41

Akaka	Durbin	Levin
Biden	Edwards	Lieberman
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carper	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Leahy	

#### NAYS—58

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Carnahan	Hutchison	Specter
Chafee	Inhofe	Thomas
Cleland	Jeffords	Thompson
Cochran	Kyl	Thurmond
Collins	Lincoln	Torricelli
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	
Domenici	McConnell	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER (Mr. CRAPO). On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. DASCHLE. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. What is the matter now before the Senate?

The PRESIDING OFFICER. Unless consent is granted, we will call up amendment No. 675.

Mr. REID. The Collins amendment?

The PRESIDING OFFICER. Amendment No. 675, unless it is agreed to be set aside.

The Senator from Utah.

Mr. HATCH. I ask unanimous consent that the amendment be set aside.

Mr. REID. I could not hear the Senator from Utah.

Mr. CONRAD. Could we have order in the Chamber, Mr. President.

The PRESIDING OFFICER. The Senator from Utah asked unanimous consent that the Collins amendment be set aside.

Without objection, it is so ordered.

Mr. HATCH. As I understand it, the next amendment is Mr. CONRAD's, the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

#### MOTION TO RECOMMIT

Mr. CONRAD. Mr. President, anybody who knows and cares about Social Security reform, knows that it costs money.

The PRESIDING OFFICER. Will the Senator suspend so the clerk can report.

Mr. CONRAD. I am pleased to do so.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] moves to recommit H.R. 1836 to the Committee on Finance with instructions to report back within 3 days with the following changes: (1) reduce the marginal rate cuts in the top brackets and estate tax cuts by a total of \$350,000,000,000 over the total of fiscal years 2002 through 2011; and (2) add the following new section:

#### SEC. . STRATEGIC RESERVE FUND FOR SOCIAL SECURITY REFORM AND DEBT REDUCTION.

If legislation is reported by the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would strengthen Social Security, extend the solvency of the Social Security Trust Funds, maintain progressivity in the Social Security benefit system, and continue to lift more seniors out of poverty, the Chairman of the appropriate Committee on the Budget shall revise the aggregates, functional totals, allocations, and other appropriate levels and limits in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, by an amount not to exceed \$350,000,000,000 for the total of fiscal years 2002 through 2011, as long as that legislation will not, when taken together with all other previously-enacted legislation, reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any of fiscal years 2002 through 2011.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, every single plan to strengthen Social Security that has been proposed by any Member on either side of the aisle costs money. Unfortunately, we don't have the money in this budget.

This bill is dramatically backloaded. It costs \$1.3 trillion this decade. It costs more than \$4 trillion next decade, at the very time the massive surpluses now turn to substantial deficits then.

My amendment says: Take \$350 billion out of this tax cut and reserve it to strengthen Social Security. We all know it costs money. We ought to reserve it now. We ought to strengthen Social Security for the future.

I urge my colleagues' support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we have had 8 years where we haven't had any strengthening of Social Security, while there was a Democrat President. There is no question we need to do that, but there is also no question that this is a tax bill and we are trying to reduce taxes so we can stimulate the economy and keep our economy going.

When I got here this year, I thought we were surely going to have more bipartisanship, but here we go again. This is another in a long list of amendments meant to slow down and stop this bill. When is this partisanship going to end?

I urge the defeat of this amendment. The pending amendment is not germane under the provisions of the reconciliation measure. I therefore raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. CONRAD. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections for consideration of the pending motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

The yeas and nays resulted—yeas 41, nays 57, as follows:

[Rollcall Vote No. 145 Leg.]

#### YEAS—41

Akaka	Durbin	Levin
Biden	Edwards	Lieberman
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Reed
Carnahan	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Kohl	Wellstone
Dodd	Landrieu	Wyden
Dorgan	Leahy	

#### NAYS—57

Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Snowe
Chafee	Hutchinson	Specter
Cleland	Inhofe	Thomas
Cochran	Kyl	Thompson
Collins	Lincoln	Thurmond
Craig	Lott	Torricelli
Crapo	Lugar	Voinovich
DeWine	McCain	Warner

#### NOT VOTING—2

Jeffords	Stevens
----------	---------

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 57.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the motion falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 765

Mr. REID. Mr. President, I call up amendment 765.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. DORGAN, and Mr. GRAHAM, proposes an amendment numbered 765.

Mr. REID. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling \$5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes)

On page 314, after line 21, add the following:

#### SEC. . NEW GUARANTEED MINIMUM PRIMARY INSURANCE AMOUNT WHERE ELIGIBILITY ARISES DURING TRANSITIONAL PERIOD.

(a) IN GENERAL.—Section 215(a) of the Social Security Act (42 U.S.C. 415(a)) is amended—

(1) in paragraph (4)(B)—

(A) by inserting “(with or without the application of paragraph (8))” after “would be made”; and

(B) in clause (i), by striking “1984” and inserting “1989”; and

(2) by adding at the end the following:

“(8)(A) In the case of an individual described in paragraph (4)(B) (subject to subparagraphs (F) and (G) of this paragraph), the amount of the individual's primary insurance amount as computed or recomputed under paragraph (1) shall be deemed equal to the sum of—

“(i) such amount, and

“(ii) the applicable transitional increase amount (if any).

“(B) For purposes of subparagraph (A)(ii), the term ‘applicable transitional increase amount’ means, in the case of any individual, the product derived by multiplying—

“(i) the excess under former law, by

“(ii) the applicable percentage in relation to the year in which the individual becomes eligible for old-age insurance benefits, as determined by the following table:

**“If the individual become eligible for such benefits in:**

1979	55 percent
1980	45 percent
1981	35 percent
1982	32 percent
1983	25 percent
1984	20 percent
1985	16 percent
1986	10 percent
1987	3 percent
1988	5 percent

“(C) For purposes of subparagraph (B), the term ‘excess under former law’ means, in the case of any individual, the excess of—

“(i) the applicable former law primary insurance amount, over

“(ii) the amount which would be such individual's primary insurance amount if computed or recomputed under this section without regard to this paragraph and paragraphs (4), (5), and (6).

“(D) For purposes of subparagraph (C)(i), the term ‘applicable former law primary insurance amount’ means, in the case of any individual, the amount which would be such individual's primary insurance amount if it were—

“(i) computed or recomputed (pursuant to paragraph (4)(B)(i) under section 215(a) as in effect in December 1978, or

“(ii) computed or recomputed (pursuant to paragraph (4)(B)(ii) as provided by subsection (d), (as applicable) and modified as provided by subparagraph (E).

“(E) In determining the amount which would be an individual's primary insurance amount as provided in subparagraph (D)—

“(i) subsection (b)(4) shall not apply;

“(ii) section 215(b) as in effect in December 1978 shall apply, except that section 215(b)(2)(C) (as then in effect) shall be deemed to provide that an individual's ‘computation base years’ may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 61, plus the 3 calendar years after such period for which the total of such individual's wages and self-employment income is the largest; and

“(iii) subdivision (I) in the last sentence of paragraph (4) shall be applied as though the words ‘without regard to any increases in that table’ in such subdivision read ‘including any increases in that table’.

“(F) This paragraph shall apply in the case of any individual only if such application results in a primary insurance amount for such individual that is greater than it would be if computed or recomputed under paragraph (4)(B) without regard to this paragraph.

“(G)(i) This paragraph shall apply in the case of any individual subject to any timely election to receive lump sum payments under this subparagraph.

“(ii) A written election to receive lump sum payments under this subparagraph, in lieu of the application of this paragraph to the computation of the primary insurance amount of an individual described in paragraph (4)(B), may be filed with the Commissioner of Social Security in such form and manner as shall be prescribed in regulations of the Commissioner. Any such election may be filed by such individual or, in the event of such individual's death before any such election is filed by such individual, by any other beneficiary entitled to benefits under section 202 on the basis of such individual's wages and self-employment income. Any such election filed after December 31, 2001, shall be null and void and of no effect.

“(iii) Upon receipt by the Commissioner of a timely election filed by the individual described in paragraph (4)(B) in accordance with clause (ii)—

“(I) the Commissioner shall certify receipt of such election to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay such individual, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to \$5,000, in 4 annual lump sum installments of \$1,250, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

“(II) subparagraph (A) shall not apply in determining such individual's primary insurance amount.



“(iv) Upon receipt by the Commissioner as of December 31, 2001, of a timely election filed in accordance with clause (ii) by at least one beneficiary entitled to benefits on the basis of the wages and self-employment income of a deceased individual described in paragraph (4)(B), if such deceased individual has filed no timely election in accordance with clause (ii)—

“(I) the Commissioner shall certify receipt of all such elections received as of such date to the Secretary of the Treasury, and the Secretary of the Treasury, after receipt of such certification, shall pay each beneficiary filing such a timely election, from amounts in the Federal Old-Age and Survivors Insurance Trust Fund, a total amount equal to \$5,000 (or, in the case of 2 or more such beneficiaries, such amount distributed evenly among such beneficiaries), in 4 equal annual lump sum installments, the first of which shall be made during fiscal year 2002 not later than July 1, 2002, and

“(II) solely for purposes of determining the amount of such beneficiary's benefits, subparagraph (A) shall be deemed not to apply in determining the deceased individual's primary insurance amount.”.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) APPLICABILITY OF AMENDMENTS.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(B) APPLICABILITY.—No monthly benefit or primary insurance amount under title II of the Social Security Act shall be increased by reason of such amendments for any month before July 2002. The amendments made in this section shall apply with respect to benefits payable in months in any fiscal year after fiscal year 2005 only if the corresponding decrease in adjusted discretionary spending limits for budget authority and outlays under section 3 of this Act for fiscal years prior to fiscal year 2006 is extended by Federal law to such fiscal year after fiscal year 2005.

(2) RECOMPUTATION TO REFLECT BENEFIT INCREASES.—Notwithstanding section 215(f)(1) of the Social Security Act, the Commissioner of Social Security shall recompute the primary insurance amount so as to take into account the amendments made by this Act in any case in which—

(A) an individual is entitled to monthly insurance benefits under title II of such Act for June 2002; and

(B) such benefits are based on a primary insurance amount computed—

(i) under section 215 of such Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(ii) under section 215 of such Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977).

(c) OFFSET PROVIDED BY PROJECTED FEDERAL BUDGET SURPLUSES.—Amounts offset by this section shall not be counted as direct spending for purposes of the budgetary limits provided in the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

Mr. REID. Mr. President, this amendment is offered on behalf of myself, Senator DORGAN, and Senator GRAHAM of Florida.

Notch babies, listen. This amendment helps dissolve the unfair notch for those born beginning in 1917. Town-halls, e-mails, letters, casual conversations—Senators, this is your opportunity to say “yes” to the notchers. A “no” vote is a stab in the back of America's greatest generation. Vote “yes” to restore dignity to these people who deserve it. Notch babies are to be protected today.

Mr. GRASSLEY. Mr. President, I rise in opposition to this amendment. While I understand how important the notch issue is to millions of senior citizens, this is neither the time nor the place to address this issue.

The bill before us today provides much needed tax relief to hard working Americans. The amendment offered by Senator REID is not germane to this bill.

This amendment has never been reviewed by any committee of jurisdiction, nor scored by the Congressional Budget Office. No one has any idea how much it would cost or what new benefit inequities it would create. In addition, the proposed offset contained in the amendment is an unconstitutional delegation of legislative authority to the Secretary of the Treasury. This is not a serious amendment.

If Congress is going to seriously consider this issue, it must be done in the context of overall Social Security reform so we can carefully consider the costs and benefits of any proposed change.

Mr. HATCH. Mr. President, we oppose this amendment. I yield to the Senator from Maine.

Ms. COLLINS. Mr. President, I rise in opposition to the amendment. The Senator has raised an important issue dealing with the appropriate treatment of those who are known as the notch babies.

We all know this is not the bill on which to resolve this issue. We need to take up that issue in the context of modernizing our Social Security system, and this is just another attempt to delay final passage of the tax bill. So I encourage my colleagues to oppose this amendment regardless of their views on the underlying issue, and let's get on with the vote and approve this bill.

Mr. REID. Mr. President, I will use 1 minute on leader time. If this is not the time to help notch babies, when is it? Some of them are approaching 84 years of age. Are we going to wait until next year until more die, or the year after? People go home and say nice things about the notch babies. Well, let's vote a nice thing for them today. Today is the day. There is no other day. This is our opportunity to take the notch unfairness out of our law.

Mr. HATCH. Mr. President, I will use 1 minute out of leader time. We just lived through 8 years of a Democratic President, and no one effort was successful—or even tried, as far as I can recall—to help the notch babies. I have always voted in favor of helping the

notch people, but the pending amendment is not germane and those on the other side know it. They are getting a great kick out of bringing this up. It is not germane.

I raise a point of order against the amendment under 305(b)(2) of the Congressional Budget Act.

Mr. REID. Mr. President, under all applicable rules of the Senate and the law, I ask that there be a waiver of the Budget Act, and I further say, explain to the notch babies that you are voting on some point of order.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I claim 1 minute under the procedure to speak on the motion.

The PRESIDING OFFICER. The order provides for only 1 minute on each side.

Mr. HATCH. I ask unanimous consent that the Senator from Maryland be given 1 minute, and that we have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, on more than one amendment it has been said that for 8 years we had a Democratic President and we didn't do anything about this issue. We spent most of those 8 years working ourselves out of the deficit box into which we have been placed by the previous administrations.

It is only now when we have some surpluses that we can start talking about doing something about these issues. How were you going to do something when you had a deficit? This is a very worthy cause for using some of those surpluses that we now have. I urge support for the Reid amendment.

Mr. HATCH. Mr. President, I will use 1 more minute. Well, it seems a little odd to me that after all these years, all of a sudden on a tax cut bill where we are trying to stimulate the economy, we get this issue. It is time to vote to reduce taxes. It is time to reduce the games. It is time to quit the partisanship. It is time to end this bill and get a vote up or down. If you can win, you win. If you can't win, you don't win.

Let's vote on this bill and quit playing partisan politics.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 146 Leg.]

## YEAS—55

Akaka	Edwards	Miller
Baucus	Ensign	Murray
Bayh	Feingold	Nelson (FL)
Biden	Feinstein	Nelson (NE)
Bingaman	Graham	Reed
Boxer	Harkin	Reid
Breaux	Hollings	Rockefeller
Byrd	Hutchinson	Sarbanes
Cantwell	Inouye	Schumer
Carnahan	Johnson	Sessions
Cleland	Kennedy	Shelby
Clinton	Kerry	Specter
Conrad	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	
Dorgan	Mikulski	

## NAYS—43

Allard	Durbin	McCain
Allen	Enzi	McConnell
Bennett	Fitzgerald	Murkowski
Bond	Frist	Nickles
Brownback	Gramm	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Smith (NH)
Campbell	Hagel	Smith (OR)
Carper	Hatch	Snowe
Chafee	Helms	Thomas
Cochran	Hutchison	Thompson
Collins	Inhofe	Thurmond
Craig	Kyl	Voinovich
Crapo	Lott	
DeWine	Lugar	

## NOT VOTING—2

Jeffords	Stevens
----------	---------

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 756

(Purpose: To require the Secretary of the Treasury to adjust the reduction in the highest marginal income rate if the discretionary spending level is exceeded in fiscal year 2002)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I call up amendment No. 756.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 756.

On page 314, after line 21, add the following:

**SEC. . ADJUSTMENT TO RATES IN RESPONSE TO BREACH OF LIMITS.**

If, in fiscal year 2002, the discretionary spending level assumed in the concurrent resolution on the budget for fiscal year 2002 (H. Con. Res. 83) for such year is exceeded, the Secretary of the Treasury shall adjust the reduction in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a), for taxable years beginning in calendar years after such fiscal year as necessary to offset the decrease in the Treasury resulting from such excess.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wanted the amendment to be read because it is a short amendment. It is a fairly straightforward amendment. It is a modest effort at making the bill a little more fiscally responsible.

The amount of the tax cut is set forth in the budget resolution. That same budget resolution sets a cap for domestic discretionary spending. We are not waiting, as we should, to see how big a tax cut we should put in place to see whether or not we are going to live under those caps which the budget resolution sets for domestic discretionary spending.

This amendment says if Congress breaks the spending caps in the budget resolution, then this 1-percent reduction in the upper bracket, which is provided for in this fiscal year, will not go into effect to the extent that it is necessary to pay for the excess in domestic discretionary spending for which the Congress votes. Otherwise, we are dipping into the Medicare surplus.

This is an amendment for fiscal responsibility. It is modest and will help make this bill more fiscally responsible.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Utah.

Mr. HATCH. I yield to the Senator from Ohio.

Mr. DEWINE. Mr. President, this is the Senate. We do believe in free and open debate and amendments. But we go on hour after hour after hour. I have not counted the number of amendments on which we have voted. We are probably over 40 amendments. It seems we need to move on; we need to pass this bill and we need to move forward.

This is a bill that has been debated; it has been compromised. I think the Senate needs to work its will. I know the amendments keep coming, but at some point we need to pass it and get to conference and send it to the President.

Mr. HATCH. The Levin amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. LEVIN. Mr. President, I move to waive the relevant sections of the act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 147 Leg.]

## YEAS—41

Akaka	Boxer	Clinton
Biden	Cantwell	Conrad
Bingaman	Carnahan	Corzine

Daschle	Inouye	Murray
Dayton	Johnson	Nelson (FL)
Dodd	Kennedy	Reed
Dorgan	Kerry	Reid
Durbin	Kohl	Rockefeller
Edwards	Landrieu	Sarbanes
Feingold	Leahy	Schumer
Feinstein	Levin	Stabenow
Graham	Lieberman	Wellstone
Harkin	Lincoln	Wyden
Hollings	Mikulski	

## NAYS—58

Allard	Domenici	Miller
Allen	Ensign	Murkowski
Baucus	Enzi	Nelson (NE)
Bayh	Fitzgerald	Nickles
Bennett	Frist	Roberts
Bond	Gramm	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Byrd	Helms	Snowe
Campbell	Hutchinson	Specter
Carper	Hutchison	Thomas
Chafee	Inhofe	Thompson
Cleland	Jeffords	Thurmond
Cochran	Kyl	Torricelli
Collins	Lott	Voinovich
Craig	Lugar	Warner
Crapo	McCain	
DeWine	McConnell	

## NOT VOTING—1

Stevens
---------

The PRESIDING OFFICER. On this vote the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

## AMENDMENT NO. 767

Mrs. BOXER. Mr. President, I send an amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for Mr. NELSON of Florida, for himself and Mrs. BOXER, proposes an amendment numbered 767.

Mrs. BOXER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To aid public health and improve water safety by providing tax-exempt bond authority to water systems to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences and adopted by the World Health Organization and European Union)

On page 314, after line 21, add the following:

**SEC. \_\_\_\_ . TAX-EXEMPT BOND AUTHORITY FOR TREATMENT FACILITIES REDUCING ARSENIC LEVELS IN DRINKING WATER.**

(a) IN GENERAL.—Section 142(e) (relating to facilities for the furnishing of water) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by striking “For purposes” and inserting the following:



“(1) IN GENERAL.—For purposes”, and

(3) by adding at the end the following:

“(2) FACILITIES REDUCING ARSENIC LEVELS INCLUDED.—Such term includes improvements to facilities in order to comply with the 10 parts per billion arsenic standard recommended by the National Academy of Sciences.”.

(b) FACILITIES NOT SUBJECT TO STATE CAP.—Section 146(g) (relating to exception for certain bonds) is amended—

(1) by striking “and” at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting “, and”, and

(3) by inserting after paragraph (4), the following new paragraph:

“(5) any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).”.

(c) EXEMPT FROM AMT.—Section 57(a)(5)(C) (relating to tax-exempt interest of specified private activity bonds) is amended by adding at the end the following new clause:

“(v) EXCEPTION FOR CERTAIN WATER FACILITY BONDS.—For purposes of clause (i), the term ‘private activity bond’ shall not include any exempt facility bond issued as part of an issue described in section 142(a)(4) (relating to facilities for the furnishing of water), but only to the extent the property to be financed by the net proceeds of the issue is described in section 142(e)(2).”.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

Mrs. BOXER. Mr. President, in my minute I hope I can convince colleagues on both sides of the aisle to support this amendment. Just this past weekend, President Bush called for a war on poverty. This amendment is a step in that direction. It is offered in that spirit. What we do is help 1.5 million veterans who are now living in poverty by giving a tax credit to those employers who hire them. This idea was proposed and is supported by the National Coalition for Homeless Veterans and the Noncommissioned Officers Association. Veterans groups tell me the current tax credit, Welfare To Work, is not working for veterans because they are not on welfare. They need this tax credit.

So we send our people into harm's way and sometimes they come back and they really are having a tough time integrating into society, getting a meaningful job. This will reward employers who give them a job. And, by the way, we pay for it by bringing that top rate down to, not 36 percent but 36.05 percent. Let's do this for our veterans.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I say to the Senator from California, she does not have a bad amendment. I think in the proper

time and place, such as on the Work Opportunity Training Act or things of that nature, it would be a good thing to do and for us to take a look at it. I will be glad to take a look at it. But at this point I am going to have to ask the amendment be defeated.

I raise a point of order, but it needs to be defeated because of the changes it makes in the tax rates. We are working on a tax bill. We have a well-balanced, well-crafted bipartisan bill. We have had 40 votes on amendments. There is too much effort, regardless of the good faith of this person in offering a good idea, to stall, stall, stall. I think we have to get this bill passed and get tax relief to the American people.

I raise a point of order. The point of order is against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am not trying to stall. I am trying to make this a better bill for our people, including our veterans.

I move we waive the Budget Act.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Alaska (Mr. STEVENS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 148 Leg.]

#### YEAS—49

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Cleland	Kennedy	Specter
Clinton	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

#### NAYS—50

Allard	Enzi	McConnell
Allen	Fitzgerald	Miller
Baucus	Frist	Murkowski
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

#### NOT VOTING—1

Stevens

The PRESIDING OFFICER. On this vote the yeas are 49, the nays are 50.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. DASCHLE. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader.

#### AMENDMENT NO. 768

(Purpose: To limit the reduction in the 39.6 rate bracket to 1 percentage point and to increase the maximum taxable income subject to the 15 percent rate)

Mr. DASCHLE. Mr. President, I have amendment No. 768 at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself and Mr. MCCAIN, proposes an amendment numbered 768.

Mr. DASCHLE. I ask unanimous consent reading of the amendment be dispensed with.

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

On page 9, in the matter between lines 11 and 12, strike “37.6%” in the item relating to 2005 and 2006 and insert “38.6%” and strike “36%” in the item relating to 2007 and thereafter and insert “38.6%”.

On page 13, between lines 15 and 16, insert:  
**SEC. 104. INCREASE IN MAXIMUM TAXABLE INCOME FOR 15 PERCENT RATE BRACKET.**

(a) IN GENERAL.—Section 1(f) (relating to adjustments in tax tables so that inflation will not result in tax increases), as amended by section 302, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D),

(B) by inserting after subparagraph (A) the following:

“(B) in the case of the tables contained in subsections (a), (b), (c), and (d), by increasing the maximum taxable income level for the 15 percent rate bracket and the minimum taxable income level for the next highest rate bracket otherwise determined under subparagraph (A) (after application of paragraph (8)) for taxable years beginning in any calendar year after 2004, by the applicable dollar amount for such calendar year.”, and

(C) by striking “subparagraph (A)” in subparagraph (C) (as so redesignated) and inserting “subparagraphs (A) and (B)”, and

(2) by adding at the end the following:

“(9) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2)(B), the applicable dollar amount for any calendar year shall be determined as follows:

“(A) JOINT RETURNS AND SURVIVING SPOUSES.—In the case of the table contained in subsection (a)—

Calendar year:	Applicable Dollar Amount:
2005 .....	\$1,000
2006 .....	\$2,000
2007 .....	\$3,000
2008 .....	\$4,000
2009 and thereafter .....	\$5,000.

“(B) OTHER TABLES.—In the case of the table contained in subsection (b), (c), or (d)—

Calendar year:	Applicable Dollar Amount:
2005 .....	\$500

<b>"Calendar year:</b>	<b>Applicable Dollar Amount:</b>
2006 .....	\$1,000
2007 .....	\$1,500
2008 .....	\$2,000
2009 and thereafter .....	\$2,500."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect one day after the date of the enactment of this Act.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, this amendment is offered on behalf of the senior Senator from Arizona and myself, Mr. McCain. It simply says that, instead of cutting the top marginal rate to 36 percent, cut the top rate to 38.6 percent. In turn, the savings would be devoted to expanding the 15 percent income tax bracket. The idea is to make this bill more fair by shifting more of its benefits to middle class people.

This is an amendment for which there has been some debate. This amendment is similar to the amendment offered by Senator McCain earlier. This amendment ought to be adopted and ought to be made a part of the pending bill. I ask for its adoption.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GRAMM. I object.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The objection is heard.

Mr. GRAMM. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment No. 768. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 149 Leg.]

#### YEAS—50

Akaka	Dodd	Lieberman
Bayh	Dorgan	Lincoln
Biden	Durbin	McCain
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Chafee	Inouye	Sarbanes
Cleland	Johnson	Schumer
Clinton	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	

#### NAYS—50

Allard	Fitzgerald	Murkowski
Allen	Frist	Nelson (NE)
Baucus	Gramm	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Santorum
Breaux	Hagel	Sessions
Brownback	Hatch	Shelby
Bunning	Helms	Smith (NH)
Burns	Hutchinson	Smith (OR)
Campbell	Hutchison	Snowe
Cochran	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	

The amendment (No. 768) was rejected.

Mr. GRAHAM. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

#### AMENDMENT NO. 748

Mr. NELSON of Florida. Mr. President, I call up amendment No. 748.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Florida [Mr. NELSON] proposes an amendment numbered 748.

The amendment is as follows:

(Purpose: To provide a proportionate reduction in the credit for State death taxes before repeal, thereby allowing for responsible full estate tax repeal)

On page 66, before line 2, insert the following:

“(C) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—

“(i) IN GENERAL.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the Secretary shall prescribe percentage point reductions which maintain the proportionate relationship (as in effect before any reduction under this paragraph) between the credit under section 2011 and the tax rates under this subsection.”.

(d) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from section 2001(c)(2)(C) of the Internal Revenue Code of 1986 (as added by the amendments made by subsection (c)).

Beginning on page 70, line 20, strike all through page 79, line 6.

Mr. NELSON of Florida. Mr. President, this is an amendment everybody can vote for because you want to protect your States. The bill phases out the estate tax for the State portion much quicker than it phases out the entire estate tax. It is going to put a real financial burden on our States. Under the existing bill, the State portion would be repealed much faster, not leaving our States enough time to prepare and plan for the loss of revenue. That is unfair to our State governments.

This amendment, sponsored by Senator GRAHAM and myself, would result

in the full repeal of the estate tax but would phase out the State estate tax portion at a rate consistent with the repeal of the Federal portion and would pay for it through a temporary reduction in the top marginal rate cuts.

This would provide for a responsible full repeal of the estate tax while leaving time for our States to plan for this loss of revenue to the States.

I yield back the time, Mr. President. The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is another one of those amendments. It has just a little change from what we voted on last night.

This delegates to the Secretary of the Treasury the setting of tax rates. I think this very much is an affront to the constitutional requirement that all revenue measures shall originate in the House.

Senator NELSON's amendment strikes at the heart of the principal jurisdiction over taxation held by the House Ways and Means Committee and the Senate Finance Committee. Every year, for 10 years, he delegates the top marginal income tax rate to the Secretary of the Treasury to determine.

This amendment sacrifices the American taxpayer for the convenience of the State treasuries. I urge defeat of the amendment.

I have a point of order I want to raise. The amendment is not germane to the provisions of the reconciliation measure. That point of order is, as you have heard so many times: I raise a point of order that the amendment violates section 305(b)(2) of the Budget Act.

Mr. NELSON of Florida. Mr. President, I was not aware that a point of order would lie on this. I would like to know what the Parliamentarian says.

The PRESIDING OFFICER. The Chair will rule on the Senator's point of order if he wishes.

The amendment is not germane.

Mr. NELSON of Florida. I am sorry, I could not hear.

The PRESIDING OFFICER. The amendment is not germane. The point of order is sustained.

Mr. NELSON of Florida. Then, Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to waive is too late at this point. The Chair has ruled.

Mr. GRASSLEY. Then we are done. Let's move on to the next amendment.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. If this is appropriate, I ask unanimous consent that the Senator from Florida be allowed to put in his request for a waiver of the germaneness rule and have a vote on it.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. NELSON of Florida. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question now is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 42, nays 57, as follows:

[Rollcall Vote No. 150 Leg.]

#### YEAS—42

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Cantwell	Feinstein	Nelson (FL)
Carnahan	Graham	Nelson (NE)
Carper	Harkin	Reed
Cleland	Hollings	Reid
Clinton	Inouye	Rockefeller
Conrad	Johnson	Sarbanes
Corzine	Kennedy	Schumer
Daschle	Kerry	Stabenow
Dayton	Landrieu	Wellstone

#### NAYS—57

Allard	Fitzgerald	Nickles
Allen	Frist	Roberts
Baucus	Gramm	Santorum
Bennett	Grassley	Sessions
Bond	Gregg	Shelby
Breaux	Hagel	Smith (NH)
Brownback	Hatch	Smith (OR)
Bunning	Helms	Snowe
Burns	Hutchinson	Specter
Byrd	Hutchison	Stevens
Campbell	Inhofe	Thomas
Chafee	Jeffords	Thompson
Cochran	Kyl	Thurmond
Collins	Lincoln	Torricelli
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeWine	McCain	Wyden
Domenici	McConnell	
Ensign	Miller	
Enzi	Murkowski	

#### NOT VOTING—1

Kohl

The PRESIDING OFFICER (Mr. VOINOVICH). On this vote the yeas are 42, and the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

#### AMENDMENT NO. 770

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 770.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To accelerate the increase in exemption amount for estates and reduce the reduction in the 39.6 percent marginal tax rate)

Beginning on page 68, strike line 12 and all that follows through page 70, line 19, and insert the following:

(a) IN GENERAL.—Subsection (c) of section 2010 (relating to applicable credit amount) is amended by striking the table and inserting the following new table:

“In the case of estates of decedents dying during:	The applicable exclusion amount is:
2002 through 2010 .....	\$4,000,000.”.

(b) LIFETIME GIFT EXEMPTION INCREASED TO \$1,000,000.—

(1) FOR PERIODS BEFORE ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax) is amended by inserting “(determined as if the applicable exclusion amount were \$1,000,000)” after “calendar year”.

(2) FOR PERIODS AFTER ESTATE TAX REPEAL.—Paragraph (1) of section 2505(a) (relating to unified credit against gift tax), as amended by paragraph (1), is amended to read as follows:

“(1) the amount of the tentative tax which would be determined under the rate schedule set forth in section 2502(a)(2) if the amount with respect to which such tentative tax is to be computed were \$1,000,000, reduced by”.

(c) GST EXEMPTION.—

(1) IN GENERAL.—Subsection (a) of 2631 (relating to GST exemption) is amended by striking “of \$1,000,000” and inserting “amount”.

(2) EXEMPTION AMOUNT.—Subsection (c) of section 2631 is amended to read as follows:

“(c) GST EXEMPTION AMOUNT.—For purposes of subsection (a), the GST exemption amount for any calendar year shall be equal to the applicable exclusion amount under section 2010(c) for such calendar year.”.

(d) REPEAL OF SPECIAL BENEFIT FOR FAMILY-OWNED BUSINESS INTERESTS.—

(1) IN GENERAL.—Section 2057 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (10) of section 2031(c) is amended by inserting “(as in effect on the day before the date of the enactment of this parenthetical)” before the period.

(B) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to estates of decedents dying and gifts and generation-skipping transfers made after December 31, 2001.

(2) SUBSECTION (b)(2).—The amendments made by subsection (b)(2) shall apply to gifts made after December 31, 2010.

(f) REVENUE OFFSET.—The reductions in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section as compared to the amendments made by section 521 of the Restoring Earnings To Lift Individuals and Empower Families (RELIEF) Act of 2001 as

reported by the Finance Committee of the Senate on May 16, 2001.

Mr. LEVIN. Mr. President, this is similar to amendment No. 759 at the desk, but it has been redrafted to avoid the germaneness point of order which could have rested against it based on giving authority to the Secretary of the Treasury. It eliminates that authority. It just sets the rates.

What we do with this amendment is make the changes in the unified estate taxes immediate instead of waiting 10 years for that \$4 million unified exemption, which is so important to making sure that small businesses are not caught by the estate tax. This amendment says we should do that now. We should bring forward these exemptions, these unified exemptions that are important to eliminate small businesses and farms from being caught in the estate tax. Ninety percent of the small businesses that would be caught by the estate tax will not be caught once we have a \$4 million unified exemption. This brings forward that exemption and pays for it by eliminating the upper bracket reduction. A lot more people will be benefited—a lot more small businesses.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

The clerk will call the roll.

Mr. REID. Mr. President, unanimous consent for what?

I didn't hear the unanimous consent agreement.

The PRESIDING OFFICER. There was a quorum call requested by the Senator from Alaska.

Mr. REID. I don't understand.

Mr. KENNEDY. Was all the time used up, Mr. President? I thought there was time on each side. The time hasn't all been used up.

The PRESIDING OFFICER. The time has not been used up. That is why it required unanimous consent.

Mr. REID. I object.

Mr. MURKOWSKI. Mr. President, I believe the unanimous consent was granted by the Chair.

Mr. REID. You can't grant something if you can't hear him. Reserving the right to object, we have spent now, this afternoon, probably close to 2 hours in quorum calls. There is going to come a time shortly when we are going to be blamed. We haven't held anything up. We didn't suggest the quorum call and here we are again. I have no problem with a quorum being called, but we have 30-some amendments left to vote on and I want to make sure we can't be blamed for not moving the bill forward.

Mr. MURKOWSKI. Mr. President, I would like clarification. I believe I suggested the absence of a quorum. The President asked if there were any objections. I believe the quorum call was in order; is that correct?

The PRESIDING OFFICER. The Senator from Alaska is correct.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this amendment costs billions, and Senator LEVIN plans to pay for it by slashing any rate relief at the top rate. He proposes no estate tax and no capital gains tax on estates, and he pays for it with a denial of any tax break at all to the top rate.

This simply is not fair. This amendment will require a tax increase of billions of dollars, according to the Joint Tax Committee. It will increase taxes tens of thousands on small business owners, and these folks throughout the country are the ones who create the jobs.

I urge everyone to vote against this amendment. Once again, I raise the point that this is probably the second, third, or fourth time we have voted on similar amendments. At some time, we ought to say enough is enough. I think now is time to say enough is enough.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Michigan.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 151 Leg.]

#### YEAS—42

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Cleland	Hollings	Rockefeller
Clinton	Inouye	Sarbanes
Conrad	Johnson	Schumer
Corzine	Kennedy	Stabenow
Daschle	Kerry	Wellstone
Dayton	Leahy	Wyden

#### NAYS—57

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Carper	Hutchison	Snowe
Chafee	Inhofe	Specter
Cochran	Jeffords	Stevens
Collins	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Torricelli
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

#### NOT VOTING—1

Kohl

The amendment (No. 770) was rejected.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 771

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 771.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make the maximum amount of the deduction for higher education expenses fully effective immediately, to repeal the termination of such deduction, and to provide an offset for revenue loss)

On page 314, after line 21, add the following:

#### SEC. \_\_\_\_ . ACCELERATION OF FULL IMPLEMENTATION OF TUITION DEDUCTION AND REPEAL OF TERMINATION.

(a) DEDUCTION FOR HIGHER EDUCATION EXPENSES.—

(1) MAXIMUM AMOUNT OF DEDUCTION.—Section 222(b)(2) (relating to applicable dollar amount), as added by section 431(a) of this Act, is amended to read as follows:

“(2) APPLICABLE DOLLAR LIMIT.—

“(A) IN GENERAL.—The applicable dollar limit shall be equal to—

“(i) in the case of a taxpayer whose adjusted gross income for the taxable year does not exceed \$65,000 (\$130,000 in the case of a joint return), \$5,000,

“(ii) in the case of a taxpayer not described in clause (i) whose adjusted gross income for the taxable year does not exceed \$80,000 (\$160,000 in the case of a joint return), \$2,000, and

“(iii) in the case of any other taxpayer, zero.

“(B) ADJUSTED GROSS INCOME.—For purposes of this paragraph, adjusted gross income shall be determined—

“(i) without regard to this section and sections 911, 931, and 933, and

“(ii) after application of sections 86, 135, 137, 219, 221, and 469.”.

(2) REPEAL OF TERMINATION.—Section 222(e) (relating to termination), as added by section 431(a) of this Act, is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2001.

(c) REVENUE OFFSET.—The reductions in 2005 and 2007 in the highest marginal tax rate in the table contained in section 1(i)(2) of the Internal Revenue Code of 1986, as added by section 101(a) of this Act, are eliminated to offset the decrease in revenues to the Treasury for each fiscal year resulting from the amendments made by this section.

Mr. LEVIN. Mr. President, when one looks at the deduction for college tuition in the bill, one finds, at least to my amazement, that it does not get fully phased in until 2004 and then it sunsets; it gets wiped out in 2006.

We should do a lot better than that for this important deduction, and this amendment will provide the full deduc-

tion immediately and pays for it by using part of the top tax bracket reduction.

An awful lot of people will benefit from this amendment helping to get students through college by having a real college tuition deduction, not just rhetoric but real, and be available now and not sunsetted 2 years after it is fully phased in.

I ask that the Senator from New York be recognized, if I have any time on my minute.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this is an important amendment for those who care about paying for college.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHUMER. We should make it permanent, and I urge support of the amendment.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Michigan described his amendment. I am not going to go back through that. We have a very good package of educational assistance, tax incentives in our bill, of which the deduction of tuition is a major portion, and that major portion was put in to make this a more bipartisan bill, particularly under the leadership of Senator TORRICELLI.

What is wrong with this amendment is not that it does not do more but the fact that it increases billions of dollars for small business men and women. The revenue loss for the tuition deduction in our bill is \$11 billion. We don't have this one scored, but this would be much higher.

Once again, I plead with people. We have a bipartisan bill. How many times do we have to defeat the same amendment? It has been 37 times now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HUTCHINSON). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to amendment No. 771.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 44, nays 55, as follows:

[Rollcall Vote No. 152 Leg.]

#### YEAS—44

Akaka	Carnahan	Dayton
Bayh	Carper	Dodd
Biden	Cleland	Dorgan
Bingaman	Clinton	Durbin
Boxer	Conrad	Edwards
Byrd	Corzine	Feingold
Cantwell	Daschle	Graham

Harkin	Levin	Rockefeller
Hollings	Lieberman	Sarbanes
Inouye	Lincoln	Schumer
Johnson	Mikulski	Stabenow
Kennedy	Murray	Torricelli
Kerry	Nelson (FL)	Wellstone
Landrieu	Reed	Wyden
Leahy	Reid	

## NAYS—55

Allard	Feinstein	Murkowski
Allen	Fitzgerald	Nelson (NE)
Baucus	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Breaux	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCaIn	Warner
Ensign	McConnell	
Enzi	Miller	

## NOT VOTING—1

Kohl

The amendment (No. 771) was rejected.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I believe I have 1 minute. Is that correct?

The PRESIDING OFFICER. Is the Senator calling up an amendment?

## AMENDMENT NO. 699

Mr. KENNEDY. Yes. I call up amendment No. 699.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 699.

Mr. KENNEDY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To condition the reductions in the 39.6 percent rate in 2002, 2005, and 2007 on the Federal Government funding certain increases in the maximum Federal Pell Grant amounts)

On page 9, between lines 14 and 15, insert:

“(4) REDUCTION IN TOP RATE CONTINGENT ON INCREASES IN FEDERAL PELL GRANT FUNDING.—Notwithstanding paragraph (2), the reductions in the 39.6 percent rate bracket which (without regard to this paragraph) would take effect for taxable years beginning in 2002, 2005, or 2007 shall not take effect at all unless the Secretary of Education certifies to the Secretary of the Treasury before November 1, 2001, November 1, 2004, or November 1, 2006, whichever is applicable, that during the fiscal year ending in 2001, or during each of the 2 fiscal years ending in 2003 and 2004 or 2005 and 2006, whichever is applicable, the Federal Government honored its commitment to fund the Federal Pell Grant program under subpart I of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) in an amount sufficient to increase the maximum Federal Pell Grant amounts awarded under such program to—

“(A) \$4,250 for the 2002-2003 school year,  
 “(B) \$4,650 for the 2003-2004 school year,  
 “(C) \$5,050 for the 2004-2005 school year,  
 “(D) \$5,450 for the 2005-2006 school year,

“(E) \$5,850 for the 2006-2007 school year,  
 “(F) \$6,250 for the 2007-2008 school year,  
 “(G) \$6,650 for the 2008-2009 school year,  
 “(H) \$7,050 for the 2009-2010 school year, and  
 “(I) \$7,450 for the 2010-2011 school year.”.

Mr. KENNEDY. Mr. President, we hear a great deal during the discussion that we can afford the tax cut. We can also afford investments in education. This debate is really about choices. In this instance, we are offering the choice of getting the full funding of the Pell grants and deferring the reduction at the highest tax rate until we have the full funding.

This Nation made enormous progress through the GI bill. That was paid \$8 paid back for every dollar that was put in. We made great progress in the cold war GI bill after the Korean war. In 1972, we enacted the Pell grant. The average Pell grant goes to a family with an income of \$14,500. At the beginning of the Pell grant it paid for 80 percent of a public education and 40 percent of a private education. Today it is 40 percent of a public education and 18 percent of a private education. This will bring it up to 50 percent and 20 percent, in terms of public and private.

It is the best investment we can make in our Nation's future. I hope we will have support for expanding the Pell Grant Program.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Can we afford? Can we afford? How come we always hear the question, can we afford the tax cut? but we never hear, can you afford when it comes to spending money?

Mr. President, this may be a very well-intentioned amendment. It is very appropriate to bring up these educational issues. But it is not appropriate on a bipartisan tax reduction bill that this Senate requested in the budget resolution adopted 2 weeks ago. I urge my colleagues to reject this amendment.

The Kennedy amendment finances the increase in Pell grants by delaying marginal rate reductions if the Secretary of Education determines that Pell grants are not fully funded.

So this is not germane. I raise this point then: The amendment is not germane because it should not be on a reconciliation measure. The point of order against the amendment is under section 305(b)(2) of the Budget Act.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive applicable sections of the act on the pending amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 153 Leg.]

## YEAS—45

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

## NAYS—54

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCaIn	Voinovich
Ensign	McConnell	Warner

## NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The PRESIDING OFFICER. The Senator from Massachusetts.

## AMENDMENT NO. 700

Mr. KENNEDY. Mr. President, I call up amendment No. 700, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 700.

Mr. KENNEDY. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To condition the reductions in the 39.6 percent rate in 2005 and 2007 on the Federal Government sufficiently funding Head Start to enable every eligible child access to such program)

On page 9, between lines 14 and 15, insert:

“(4) REDUCTION IN TOP RATE CONTINGENT ON HEAD START FUNDING.—Notwithstanding paragraph (2), the reductions in the 39.6 percent rate bracket which (without regard to this paragraph) would take effect for taxable years beginning in 2005 or 2007 shall not take effect at all unless the Secretary of Education certifies to the Secretary of the Treasury before November 1, 2004, or November 1, 2006, whichever is applicable, that during each of the 2 fiscal years ending in 2003 and 2004 or 2005 and 2006, whichever is applicable, the Federal Government honored its commitment to fund the Head Start Act in an amount sufficient to enable every eligible child access to such program.”.

Mr. KENNEDY. Mr. President, this is another amendment about priorities.

We are now funding half the eligible children for Head Start. This amendment says, after we fund the rest of the children who are eligible for the Head Start program, then the top rate can be lowered from 39.6 percent to 36 percent.

We have had three Carnegie Commission studies that talked about the importance of investing in Head Start. We had a report issued in January of last year by the National Science Foundation entitled "From Neurons to Neighborhoods." It is an evaluation of all the Early Head Start Programs, saying this is the best investment that we can make in terms of helping children develop their brains.

In a few days, we are going to deal with the education bill. This may very well be more important to the children of this country than that legislation. Let's say we believe in investing in our future, investing in our children. Let's fund the Head Start Program.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Arizona.

Mr. KYL. Mr. President, I am pleased to stand in for the chairman of the committee.

This amendment for full funding of Head Start has no place in this bill. The chairman has made the point over and over again that this bill is carefully constructed to include a variety of interests on both sides of the aisle. Each of these amendments is an attempt to upset that balance, in many cases, as in this one, with no estimate of the cost whatsoever. As a result, of course, a point of order lies, a point of order which I will make in just a moment.

It ought to be clear to everyone that this is boiling down to a question of who is for tax cuts and who isn't. Time after time, amendments are presented on that side of the aisle, and they are defeated by this side of the aisle. I think it ought to become clear to people after a while what is really occurring on. It is a stall tactic, and it really defines who is for tax cuts and who isn't.

Mr. President, because of the point I made, the pending amendment is not germane to the provisions of the reconciliation measure. I, therefore, raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of the Budget Act for the consideration of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—45

Akaka	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Edwards	Mikulski
Boxer	Feingold	Murray
Byrd	Feinstein	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kerry	Torricelli
Daschle	Landrieu	Wellstone
Dayton	Leahy	Wyden

NAYS—54

Allard	Enzi	Miller
Allen	Fitzgerald	Murkowski
Baucus	Frist	Nelson (NE)
Bennett	Gramm	Nickles
Bond	Grassley	Roberts
Breaux	Gregg	Santorum
Brownback	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner

NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay in the Table was agreed to.

AMENDMENT NO. 698

Mr. DURBIN. Mr. President, Senator KENNEDY has authorized me to offer amendment No. 698.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. KENNEDY, proposes an amendment numbered 698.

Mr. DURBIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow the Hope Scholarship Credit for all costs of attendance and to decrease the reduction in the 39.6 rate)

On page 9, strike the matter between lines 11 and 12, and insert:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2002, 2003, and 2004 ..	27%	30%	35%	39%
2005 and 2006 .....	26%	29%	34%	38.2%
2007 and thereafter .....	25%	28%	33%	36.6%

On page 62, between lines 7 and 8, insert:

SEC. \_\_\_\_ HOPE SCHOLARSHIP CREDIT AVAILABLE FOR COSTS OF ATTENDANCE.

(a) IN GENERAL.—Section 25A(f)(1) is amended by adding at the end the following subparagraph:

"(D) COSTS OF ATTENDANCE.—For purposes of determining the amount of the Hope Scholarship Credit under subsection (b), such term shall include the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711), as in effect on the date of enactment of this subparagraph) of the eligible student at an eligible educational institution."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Mr. DURBIN. Mr. President, Members of the Senate, this is an amendment I am offering for Senator KENNEDY. The HOPE scholarship tax credit is valuable to students but not to those who are attending community colleges and public universities. It is limited to tuition and fees.

This amendment expands the reach of the HOPE scholarship tax credit to include other costs of college, such as transportation, daycare, cost of computers, books, and the like. This will mean the HOPE scholarship tax credit will help children of limited means from families who aren't wealthy receive a college education.

I hope Members of the Senate will consider a change in the upper tax rates to bring it to the same level as all other tax rate reductions, the benefits of that savings going to the kids in community colleges so they can qualify for the HOPE scholarship tax credit.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, compared to the bill that is before us, this amendment is a tax increase for a large segment of middle America. Families making \$50,000, \$60,000 a year would not see rates reduced.

Relative to the bill, the rates are effectively increased. We believe it would be a very expensive addition to a \$30 billion package of education proposals already included in the bill. As a result, obviously, it not only upsets the bipartisan agreement that has been crafted between Senator BAUCUS and Senator GRASSLEY and the committee but in fact would represent a huge revenue loss—the estimate not being before us.

As I said before, what we are seeing is amendment after amendment being presented which do not pass but which clearly make the point that there are some folks here who are for tax cuts and some folks who are not for tax cuts.

This is the 43rd amendment on which we have voted. Of those presented today, almost half of them have not even been relevant. It is time to call this to a stop. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.



Mr. DURBIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 155 Leg.]

#### YEAS—43

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

#### NAYS—56

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

#### NOT VOTING—1

Kohl

The amendment (No. 698) was rejected.

The PRESIDING OFFICER. The Senator from Minnesota.

#### MOTION TO RECOMMIT

(Purpose: To provide for a fully refundable HOPE education tax credit)

Mr. WELLSTONE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] moves to recommit H.R. 1836 to the Finance Committee, with instructions that the Committee on Finance report the bill to the Senate within three days, with the following amendments that:

Provide a fully refundable HOPE tax credit beginning in 2002; and

Strike the reductions in the 39.6% bracket.

Mr. WELLSTONE. Mr. President, this cuts the tax cut from the top .7 percent and instead puts the money into the HOPE Scholarship Program which would make it refundable. It would make a refundable tax credit, which means your community college students, who are about the hardest working group of students one will ever

find—many are going back to school; many of them are men and women in their thirties and forties with children—would then be able to afford this.

Right now, if their income is below \$26,000, \$27,000 a year, they do not get any benefit unless it is refundable.

We could not do anything more important for higher education, especially if you care about the working class, these community college students. I hope there will be great support for this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the Senator from Minnesota has well described his amendment. It is very similar to the last amendment, but this is a motion to recommit. There is no estimate of the revenue loss of the proposal, though it will be huge.

The bill already, as we all know, has a \$30 billion package of education tax incentives. Given the amount of money available for the various pieces of relief within the bill, we think that is quite generous.

The proposal, obviously, will raise the taxes of individuals and small businesses by the billions that would be necessary to pay for it.

It is almost 8:30 p.m. This is the third day we have been taking up amendments. We have now considered 44. This will be 45. Almost half of them today have not been relevant. Why do we keep having the same amendments over and over? This is virtually the same amendment as the last one.

I appreciate those on both sides of the aisle who have supported the committee bill. It is important we continue to do that. This all boils down to who supports tax relief and who does not. If you support tax relief, vote no on this crippling proposal.

Mr. WELLSTONE. Mr. President, I ask for the yeas and the nays, and I say to colleagues, all this does is cut the tax cut for the top .7 percent. I do not know where my colleague gets these figures. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 156 Leg.]

#### YEAS—39

Akaka	Corzine	Harkin
Bayh	Daschle	Hollings
Biden	Dayton	Inouye
Boxer	Dodd	Johnson
Byrd	Dorgan	Kennedy
Cantwell	Durbin	Kerry
Carnahan	Edwards	Landrieu
Clinton	Feingold	Leahy
Conrad	Graham	Levin

Lieberman  
Mikulski  
Murray  
Reed

Reid  
Rockefeller  
Sarbanes  
Schumer

Stabenow  
Torricelli  
Wellstone  
Wyden

#### NAYS—60

Allard  
Allen  
Baucus  
Bennett  
Bingaman  
Bond  
Breaux  
Brownback  
Bunning  
Burns  
Campbell  
Carper  
Chafee  
Cleland  
Cochran  
Collins  
Craig  
Crapo  
DeWine  
Domenici

Ensign  
Enzi  
Feinstein  
Fitzgerald  
Frist  
Gramm  
Grassley  
Gregg  
Hagel  
Hatch  
Helms  
Hutchinson  
Hutchison  
Inhofe  
Jeffords  
Kyl  
Lincoln  
Lott  
Lugar  
McCain

McConnell  
Miller  
Murkowski  
Nelson (FL)  
Nelson (NE)  
Nickles  
Roberts  
Santorum  
Sessions  
Shelby  
Smith (NH)  
Smith (OR)  
Snowe  
Specter  
Stevens  
Thomas  
Thompson  
Thurmond  
Voinovich  
Warner

#### NOT VOTING—1

Kohl

The motion was rejected.

Mr. LOTT. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 730

Mr. HARKIN. Mr. President, on behalf of myself and Senator JOHNSON, I CALL UP AMENDMENT NO. 730.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. JOHNSON, proposes an amendment numbered 730.

Mr. HARKIN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to adjust the income tax rates and to provide a credit to teachers and nurses for higher education loans)

At the end of subtitle D of title IV, add the following:

#### SEC. \_\_\_\_ CREDIT FOR CERTAIN HIGHER EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by section 432, is amended by inserting after section 25B the following new section:

#### “SEC. 25C. CERTAIN HIGHER EDUCATION LOANS.

“(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest and principle paid by the taxpayer during the taxable year on any qualified education loan.

“(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a qualified individual shall not exceed \$2,000.

“(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

“(d) DEFINITIONS.—For purposes of this section—

“(1) DEPENDENT.—The term ‘dependent’ has the meaning given such term by section 152.

“(2) NURSE.—The term ‘nurse’ means—

“(A) an individual who is—

“(i) licensed or certified by a State to provide nursing or nursing-related services, and

“(ii) employed to perform such services on a full-time basis for at least 6 months in the taxable year in which the credit described in subsection (a) is claimed, or

“(B) any other licensed or certified health professional practicing in a health profession shortage area, as defined in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)).

“(3) QUALIFIED EDUCATION LOAN.—The term ‘qualified education loan’ has the meaning given such term by section 221(e)(1).

“(4) QUALIFIED INDIVIDUAL.—The term ‘qualified individual’ means a teacher or a nurse.

“(5) TEACHER.—The term ‘teacher’ means—

“(A) a certified individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in any State, Federal, or tribally licensed elementary or secondary school on a full-time basis for an academic year ending during a taxable year, or

“(B) a head start teacher in a licensed head start program recognized by the Secretary of Health and Human Services.

“(f) SPECIAL RULES.—

“(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section if any amount of interest or principle on a qualified education loan is taken into account for any deduction or credit under any other provision of this chapter for the taxable year.

“(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

“(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.”

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Certain higher education loans.”.

(c) REVENUE OFFSET.—The Secretary of the Treasury shall adjust the highest rate of tax under section 1 of the Internal Revenue Code of 1986 (as amended by section 101 of this Act) to the extent necessary to offset in each fiscal year beginning before October 1, 2011, the decrease in revenues to the Treasury for that fiscal year resulting from the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made under subsection (a) and (b) shall apply to any qualified education loan (as defined in section 25C(d)(3) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after December 31, 2001, but only with respect to any loan interest or principle payment due in taxable years beginning after December 31, 2001.

Mr. HARKIN. Mr. President, the Health Committee heard testimony last week by 2010 there will be a shortage of 725,000 nurses. This will grow to 1.2 million nurses by 2020 as the baby boom generation retires and needs more care.

Many other crucial professions are also in short supply. The number of unfilled pharmacist positions in community practice nationally rose from 2,700 vacancies in February of 1998 to over 7,000 by February of 2000.

Relative to education, over the next 10 years we must hire 2.2 million new teachers to replace those who are retiring or leaving the classroom.

My amendment will go a long way to improving the supply of teachers, nurses, and other health professionals. It would provide a 50-percent tax credit of up to \$2,000 a year for the cost of repaying educational loans for nurses, teachers, and other health professionals who serve in federally designated health professional shortage areas.

It would be paid for by eliminating the huge tax break for the wealthiest of Americans provided in this bill. It would strike the reduction in the top rate. Again, that is precisely what this amendment does.

I ask unanimous consent to have printed in the RECORD a letter from the NEA.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL EDUCATION ASSOCIATION,  
Washington, DC, May 21, 2001.

Senator HARKIN,  
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for your amendment to the tax bill that would provide a tax credit to offset the costs of teachers' student loan payments.

As you know, providing every child the opportunity to excel requires ensuring a highly qualified teacher in every classroom. To meet this goal, America must meet the challenges posed by record public school enrollments, the projected retirements of thousands of veteran teachers, and critical efforts to reduce class sizes. Given these favors, public schools will need to hire an estimated 2.2 million new teachers by 2009.

Despite these urgent needs, recruitment of high-quality teachers remains a significant challenge—one exacerbated by low salaries. A recent NEA report found that during the decade from 1989-90 to 1999-2000, average salaries for public school teachers increased by less than one percent, in constant dollars. Often, therefore, talented individuals facing high student loan costs simply cannot afford to enter or remain in the teaching profession.

By providing a tax credit to offset student loan payments, your amendment will help attract and retain high-quality teachers. We thank you for your leadership in addressing this important issue.

Sincerely,

MARY ELIZABETH TEASLEY,  
Director of Government Relations.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it is now 8:45. I believe this will be the 46th amendment we will have considered. This amendment also deals with the subject that about half of the recent amendments have dealt with—education—which I have already discussed we have done a lot about in the bill already.

There is a point at which I think our colleagues are going to have to conclude that the continued offering of these amendments over and over and over again is for the purpose of dragging this out and preventing the Sen-

ate from passing an important bill for tax relief for the American people. It also depends upon whether you are for tax relief or not. For those who continue to offer these amendments, it is apparent that they are not for the bill, they are not going to support the bill, they continue to try to drag this out so we won't complete this bill before the Memorial Day recess.

The amendment is not germane to the provisions of the reconciliation measure, and therefore I raise a point of order against the amendment under section 305(b)(2) of the Budget Act.

Mr. HARKIN. Pursuant to section 904 of the Congressional Budget Act, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ENZI). Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—43

Akaka	Dorgan	Lincoln
Bayh	Dubin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Graham	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carnahan	Inouye	Sarbanes
Carper	Johnson	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Landrieu	Wellstone
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lieberman	

NAYS—56

Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Baucus	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thommond
DeWine	Lugar	Voinovich
Domenici	McCain	Warner
Ensign	McConnell	

NOT VOTING—1

Kohl

The PRESIDING OFFICER. On this vote the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the next amendment in order will be that of the Senator from North Dakota, Mr. CONRAD, the ranking member on the Budget Committee.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 781

Mr. CONRAD. Mr. President, this amendment improves our debt reduction by ending the repeal of the estate tax. The estate tax is ended just before we begin the second decade, right at the time the baby boomers start to retire and the cost of this tax bill then explodes to about \$4 trillion.

My amendment is simple. It continues all of the provisions to increase the unified credit so that a couple could pass \$8 million with no estate tax.

In addition, we preserve stepped up basis so that you pay future taxes on the basis of the value of the property when you inherit it, not on the basis of what your grandfather paid or what your father paid.

I believe this is a sound amendment and one that deserves the support of our colleagues.

The PRESIDING OFFICER. The Senator's time has expired.

Is the Senator going to send up the amendment?

Mr. CONRAD. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 781.

The amendment is as follows:

(Purpose: to reduce debt by eliminating the repeal of the estate tax)

Strike the following sections of the bill: Sections 501, 541, and 542.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. KYL. Mr. President, it is a bit confusing when these amendments are taken out of order. At the moment, if I could ask for my colleagues' indulgence, we do not have a copy of this amendment. We may have to get it from the sponsor of the amendment.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. KYL. Mr. President, it appears that we have not been given this amendment. I know that my colleagues on the other side have made it clear that it was their intent that we receive all copies of all amendments prior to the time of their presentation. As of right now, in any event, it does not appear we have this amendment.

I would ask for my colleagues' indulgence for a moment. If the Senator from North Dakota wishes to offer the amendment, then we are going to have to have an opportunity to review it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator's time has expired.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent to make a statement for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to publicly thank my great friend and long-time companion, Senator INOUE, for his kindness in pairing with me on two votes during the last 2 days. I had made a commitment to my granddaughter to be present at her graduation from high school, and I decided to keep that commitment. But we knew there would be close votes. I talked to my good friend, and he gave me this commitment he would pair on votes on which my absence might make a difference.

There are few friendships in this world that are stronger than my love for my great friend from Hawaii, a committed and dedicated American, and one who has been recognized by our country for his heroism at war. But he showed last night, once again, that he is a true friend as far as I am concerned.

I publicly thank him for that.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Alaska is certainly one to talk about friendship. I say that very seriously. When I was a Member of the House of Representatives, a man by the name of Alan Bible, who was 20 years a Senator here, died. And, of course, the procedure was that an airplane was supplied to Members of Congress to go to Nevada for the funeral.

The only person on that airplane, other than me, was Senator Ted Stevens. He was there as a result of his friendship with Alan Bible. Particularly, one vote that Senator STEVENS remembers was very hard for Alan Bible to cast. As a result of that, Senator STEVENS traveled 1 day 6,000 miles to repay what he felt was a debt he owed to a dead man. So Senator STEVENS is gracious in extending compliments to Senator INOUE, which Senator INOUE deserves. But Senator STEVENS, in my book, is someone who knows what friendship means.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, there is an amendment pending. I believe that we have a copy of it now. We should be ready to go to the vote momentarily. It would be our intent, on both sides of the aisle, to make this the last vote tonight and resume voting again in the morning at 9:30, at which point I am hoping that Senator DASCHLE and I can work together and get an agreement as to how we would proceed in the morning and as to how we would complete action on this legislation.

I am not going to propound a unanimous consent request now, but we want Senators to know this will be the last vote of the night. We will be back at 9:30. Our intent is to work together to find a way to successfully complete action on this legislation.

Mr. BYRD. May we have order.

Mr. LOTT. I would be glad to yield to Senator BYRD or to Senator REID.

Mr. BYRD. May we have order.

The PRESIDING OFFICER. The Senate will please be in order.

Cease all conversations.

Mr. REID. I say to the majority leader—

The PRESIDING OFFICER. The Senate is not in order yet.

Mr. REID. I say to the majority leader, in the morning at 9:30 we would intend to vote first on amendment No. 780 offered by Senator DURBIN.

Mr. LOTT. I believe we have other amendments that would be in order. I believe Senator SNOWE has indicated that she will have one in the morning.

Mr. REID. I believe it is your turn.

Mr. LOTT. If we do not have one ready to go at 9:30, we would go to the Durbin amendment, and then one—we have we offered one today?

Mr. REID. Three days ago.

Mr. LOTT. We might want to have one every other day until we can complete action.

I yield the floor.

Mr. KYL. Mr. President, I would like to take the minute now in opposition to the amendment. We have had an opportunity to review it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Thank you.

Mr. President, this amendment uses repeal of the death tax to pay down the debt further. We already defeated amendments which would help with HOPE scholarships and Head Start and a variety of other things. This now would use it to pay down the debt. Obviously, it is something we have considered and rejected in the past.

I urge my colleagues to reject it again. This would make, I believe, something like the 46th amendment. There does not appear to be anything new under the Sun here, and, as a result, I hope my colleagues will join me in defeating the amendment.

The PRESIDING OFFICER. Does the Senator yield back time?

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to Conrad amendment No. 781.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Wisconsin (Mr. KOHL) is necessarily absent.

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 158 Leg.]

#### YEAS—42

Akaka	Daschle	Kerry
Baucus	Dayton	Landrieu
Biden	Dodd	Leahy
Bingaman	Dorgan	Levin
Boxer	Durbin	Lieberman
Breaux	Edwards	Mikulski
Byrd	Feingold	Reed
Cantwell	Graham	Reid
Carnahan	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Stabenow
Conrad	Johnson	Torricelli
Corzine	Kennedy	Wellstone

#### NAYS—57

Allard	Fitzgerald	Murray
Allen	Frist	Nelson (FL)
Bayh	Gramm	Nelson (NE)
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Cleland	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Kyl	Specter
Craig	Lincoln	Stevens
Crapo	Lott	Thomas
DeWine	Lugar	Thompson
Domenici	McCain	Thurmond
Ensign	McConnell	Voinovich
Enzi	Miller	Warner
Feinstein	Murkowski	Wyden

#### NOT VOTING—1

Kohl

The amendment (No. 781) was rejected.

Mr. KYL. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### BALANCE OF POWER

Mr. BYRD. Mr. President, during the course of this week's debate, several amendments have been offered that would direct the Treasury Secretary to adjust marginal tax rates in a way that would provide the necessary savings to fund particular tax benefits.

I opposed these amendments because the U.S. Constitution explicitly vests that power in the legislative branch. It is the responsibility of the Congress—the people's representatives—to determine the appropriate level of taxation and, consequently, the proper marginal rates. By delegating such duties to the Treasury Secretary, the Congress would continue a dangerous pattern of recent years of ceding congressional responsibilities to the executive branch. Placing these powers in the legislative

branch was part of the Framers' carefully crafted constitutional design, comprised of an intricate system of checks and balances and separation of powers.

I hope that the Senate will continue to protect the balance of powers by rejecting any amendment that would attempt to transfer its Constitutional responsibilities to the executive.

#### AMENDMENT NO. 695

Mr. NELSON of Florida. Mr. President, I rise to speak of my opposition to the amendment offered yesterday by Senator DODD, which would replace the estate tax repeal in order to partially pay for nontransportation infrastructure programs and save for debt reduction. I strongly support responsible tax cuts and a full repeal of the estate tax.

Even though paying down the national debt is one of my top priorities, I could not support an amendment that does not reflect my position of support for total repeal of the estate tax. I opposed this amendment because the revenue offset did not meet this criterion.

#### VOTE ON AMENDMENT NO. 747

Mr. LEAHY. Mr. President, I was absent for rollcall vote No. 143. If I had been present, I would have voted in favor of the motion to waive the Budget Act on amendment No. 747 offered by Senator CARPER.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

#### MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### U.S. RELATIONS WITH TAIWAN

Mr. BAUCUS. Mr. President, last night, I spoke by phone to Taiwan President Chen Shui-bian shortly after he arrived in New York on a so-called "transit stop" on his way to Latin America. I told him how pleased I was that he was able to make this visit and that I regretted that I could not travel to New York to meet with him personally because of the tax bill now on the Senate floor.

I strongly opposed the restrictions placed on President Chen when he passed through Los Angeles last summer and was not permitted to meet with members of Congress. That is no way to treat the democratically elected President of Taiwan.

We are in a different era than in the 1970s when Richard Nixon opened up China, the three Communiques were produced, and the Taiwan Relations Act was passed.

On the one hand, we still honor the one China policy. The American message to Beijing and Taipei continues to be that they must negotiate together to resolve their differences by peaceful

means. We are determined that neither side should be able to take unilateral steps that would fundamentally change the situation.

But, on the other hand, we need to understand that Taiwan now has a government that is as accountable to its people as is our own government. Although Taiwan had an authoritarian system until the late 1980s, today it is an active democracy based on a market economy. With U.S. support, Taiwan made this transformation into a free market democracy. We should be looking at Taiwan as one of the great success stories of America's foreign policy.

And that means we need to treat Taiwan differently than in the past. It is the 12th largest economy in the world. Taiwan is our 7th largest export market. In fact, we sold more goods and services to Taiwan last year than we did to China.

Once Taiwan joins the World Trade Organization, and I hope it is soon, I believe that we should begin work on a free trade agreement with Taiwan. I will shortly introduce legislation to provide fast track negotiating authority for such a negotiation.

Taiwan has taken many measures to liberalize its economy in recent years, especially in response to negotiations with the United States. While they await formally accession to the WTO, they are working hard to bring their laws and regulations into compliance with WTO requirements. They still have a lot of work to do to complete their liberalization efforts. Sectors such as telecommunications, financial services, and electronic commerce need to be freed up significantly. Protection of intellectual property needs to be improved. But a free trade agreement would help lock in the important economic changes already made, and it would also encourage continuing liberalization.

A free trade agreement with Taiwan would provide an even better market for American goods, services, and agricultural exports. It would reward Taiwan for the dramatic political and economic progress it has made. And it would benefit our economy, enhance our security, and promote global growth.

China would probably object to a US-Taiwan free trade agreement. But there would be no legal or diplomatic basis for such a protest. Taiwan is joining the WTO as a "separate customs territory" and will have all the rights and obligations of every other WTO member, including Beijing. We have been negotiating with Taiwan for years on market access, trade, and regulatory issues. Taiwan is a member of APEC, the Asia-Pacific Economic Cooperation forum. We must determine what will be U.S. policy toward Taiwan.

I recognize that this is an unusual proposal. I don't expect negotiations on a free trade agreement to start right away. But it is a vision toward which we should all work.